



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,506	12/18/2003	Stuart V. Holsten	10872.0358.NPUS00	1505
26720	7590	01/11/2007	EXAMINER	
LOCKE LIDDELL & SAPP LLP			TILL, TERENCE R	
ATTN. DOCKETING			ART UNIT	PAPER NUMBER
600 TRAVIS #3400				
HOUSTON, TX 77002			1744	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/11/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/707,506	HOLSTEN, STUART V.	
	Examiner Terrence R. Till	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4,8-10 and 13-16 is/are rejected.
- 7) Claim(s) 3,5-7,11,12 and 17-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____.                         |

**DETAILED ACTION**

*Specification*

1. The disclosure is objected to because of the following informalities: In paragraph 25, "developers" should be --developers'--.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 2, 4, 9, 10 and 13-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Schoenewald et al. (US 6,508,867).

4. The patent to Schoenewald et al. discloses a vacuum appliance comprising a collection drum 8; a motor 3 operable to drum; a lid 16 removably attached to the collection drum to create a vacuum in the collection drum, the lid having a motor mount member (housing surrounding motor 3) with the motor attached thereto, the motor mount member having first and second generally opposing sides (i.e., upper and lower sides); and a generally U-shaped channel (see figure 3, there is an elastomeric U-shaped member located above suction opening 5) formed in the second side (bottom side) of the motor mount member extending around the periphery of the motor mount member to form a slight lip extending from the first side member of the motor mount, the U-shaped channel allowing slight movement of the motor mount member to absorb vibrations from the motor. The motor (upper part of 3) is attached to the first side (top side) of

the motor mount member and wherein, inherently, the motor includes a shaft having the blower wheel attached thereto. With respect to claim 14, the U-shaped member is considered to provide a vacuum and water seal. With respect to claim 15, the patent to Schoenewald et al. is considered to disclose the structure that inherently anticipates the method of Claims 15 and 16.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenewald et al. (US 6,508,867) in view of the admitted Prior Art.

8. Schoenewald et al. discloses the claimed invention except that the collection drum used does not have a drain opening. The admitted Prior Art (Figure 1) shows a collection drum 12 that includes a drain opening 18 extending therethrough. Therefore, because these two collection drums were art-recognized equivalents at the time the invention was made, one of ordinary skill

Art Unit: 1744

in the art would have found it obvious to substitute the collection drum of Schoenewald et al. for the collection drum of the admitted Prior Art.

*Allowable Subject Matter*

9. Claims 3, 5-7, 11, 12 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter:

With respect to claims 5-7, 11, 12 and 18-20, all the prior art has the motor and fan assembly as one unit and mounted as a unit on top of some mounting assembly. The claims call for the motor to be mounted to the motor mount member and the blower to be located on the other side of the mount member.

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Frits et al., Fellhauer and Sjoberg show the current state of the art in canister vacuums.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Terrence R. Till  
Primary Examiner  
Art Unit 1744

trt